

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DAMIEN MIKELL,

Plaintiff,

V.

SHIRLEY MOORE SMEAL, *et al.*,

Defendants.

CIVIL NO. 1:11-CV-0454

Hon. John E. Jones III

MEMORANDUM

April 8, 2011

THE BACKGROUND OF THIS MEMORANDUM IS AS FOLLOWS:

Plaintiff Damien Mikell (“Plaintiff” or “Mikell”), an inmate presently confined at the State Correctional Institution Rockview (“SCI Rockview”) in Bellefonte, Pennsylvania, initiated the above action *pro se* by filing a civil rights Complaint under the provisions of 42 U.S.C. § 1983. (Doc. 1.)

Named as Defendants are Shirley Moore Smeal, former Deputy Secretary for the Central Region of the Pennsylvania Department of Corrections (“DOC”), as well as the following current or former employees of SCI Rockview: Franklin Tennis, former Superintendent; Robert Marsh, Deputy Superintendent; Brian Thompson, former Deputy Superintendent; Melinda Smith, former Program Manager; Craig Harpster, Unit Manager; Lynn Eaton, Security Captain; Robert Vance, Security Lieutenant; and

Dale Davis, Correctional Officer. Plaintiff alleges that Defendants were deliberately indifferent to his safety in placing him into a cell with another inmate who assaulted him.

The instant action was initiated on March 10, 2011. Previously, a civil rights action was initiated in this Court on March 1, 2011 upon receipt of an identical Complaint filed by Mikell. *See Mikell v. Moore*, Civil No. 1:11-CV-0388. By separate Order, service of the Complaint filed in that action on Defendants will be directed.

On April 1, 2011, a letter from Mikell was entered on the docket in which he requests that the action filed at the above-captioned docket number be closed because the Complaint filed in this case is identical to the Complaint filed in Civil No. 1:11-CV-0388. (Doc. 5.) He explains that, at the time he filed his Complaint in Civil No. 1:11-CV-0388, he indicated that he would send additional copies of his Complaint for service on Defendants, and that when his additional copies were received on March 10, 2011, the Clerk of Court filed them as a new action at the above docket number. (*Id.* at 2.)

We shall construe Mikell's request as a Motion for Voluntary Dismissal of this action, we shall grant the Motion, and we shall direct that this case be closed. An appropriate Order shall issue on today's date.